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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12
13 REMBERTO ARELLANO,
14
15 Petitioner,
16 v.
17 CHRISTOPHER LAROSE, OMDL,
18 Respondent.

Case No.: 26-cv-02196-DMS-MMP
**SUPPLEMENTAL RESPONSE IN
OPPOSITION TO PETITION FOR A
WRIT OF HABEAS CORPUS**

19
20 **I. INTRODUCTION**

21 Respondent filed his response to Petitioner's second habeas petition on April 22,
22 2026. At the time, Petitioner was in removal proceedings under 8 U.S.C. § 1229a and
23 statutorily detained under 8 U.S.C. § 1225(b). On May 15, 2026, Petitioner was ordered
24 removed to Mexico and did not appeal the immigration judge's decision. As such,
25 Petitioner's removal order became administratively final on June 15, 2026 and his
26 detention is now statutorily mandated under 8 U.S.C. § 1231(a) for a period of 90 days
27 to allow the government to execute the removal order. As Petitioner is now subject to a
28

1 final order of removal, Respondent respectfully requests the Court deny the habeas
2 petition.

3 II. BACKGROUND

4 On April 22, 2026, Respondent filed a response opposing Petitioner's habeas
5 petition on grounds Petitioner did not exhaust his administrative remedies. *See* ECF No.
6 6. At the time, Petitioner was in removal proceedings, pending the completion of a
7 merits hearing, and was detained under 8 U.S.C. § 1225(b). On May 15, 2026, an
8 Immigration Judge (IJ) denied Petitioner's applications for relief from removal and
9 ordered Petitioner removed to Mexico. *See* Exhibit 1 (Order of the Immigration Judge).
10 Petitioner had thirty days to perfect an appeal of the removal order to the Board of
11 Immigration Appeals. *See id.* Petitioner did not appeal to the BIA, so the removal order
12 became final on June 15, 2026. *See* 8 C.F.R. § 1241.1(c). Petitioner is now mandatorily
13 detained under 8 U.S.C. § 1231(a) and Immigration and Customs Enforcement (ICE) is
14 able to effectuate Petitioner's removal to Mexico as soon as this Court lifts its order
15 enjoining transfer out of the district.

16 III. ARGUMENT

17 "Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
18 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
19 removed from the United States." *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
20 (2022). The INA provides that an alien ordered removed must be detained for 90 days
21 pending the government's efforts to secure the alien's removal through negotiations
22 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall
23 detain" the alien during the 90-day removal period under subsection (a)(1)).

24 Section 1231(a)(6) "authorizes further detention if the Government fails to
25 remove the alien during those 90 days." *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).
26 Detention authority under this statute, however, is limited to "a period reasonably
27 necessary to bring about the alien's removal from the United States" and "does not
28 permit indefinite detention." *Id.* at 689. The Supreme Court has held that a six-month

1 period of post-removal detention constitutes a “presumptively reasonable period of
2 detention.” *Id.* at 701. Release is not mandated after the expiration of the six-month
3 period unless “there is no significant likelihood of removal in the reasonably foreseeable
4 future.” *Id.*

5 Because Petitioner is now subject to a final, executable order of removal, his
6 detention is governed by 8 U.S.C. § 1231(a). *See Arteaga-Martinez*, 596 U.S. at 578
7 (explaining that § 1231(a) “governs the detention, release, and removal of individuals
8 ‘ordered removed’”). That statute requires that Petitioner be detained for 90 days
9 following “[t]he date the order of removal becomes administratively final” while the
10 government seeks to execute removal. 8 U.S.C. § 1231(a)(1)(B)(i). This period is
11 known as the “removal period.” *Id.* § 1231(a)(1). As previously noted, ICE is moving
12 expeditiously to effectuate Petitioner’s removal to Mexico.

13 Petitioner’s removal period started two days ago—“so he is still in the 90-day
14 window of statutorily mandated detention.” *Tumasov v. Doe I*, No. 25-cv-2704-AGS-
15 JLB, 2025 WL 3171897, at *1 (S.D. Cal. Nov. 13, 2025). “In other words,” Petitioner’s
16 “detention is not merely legal, but required” at this time. *Id.* Because Petitioner must be
17 detained during the current 90-day statutory removal period, he cannot demonstrate that
18 he “is in custody in violation” of the law. *See* 28 U.S.C. § 2241(c)(3). Moreover, under
19 § 1231(a)(6) and *Zadvydas*, Petitioner’s post-final order detention is presumptively
20 reasonable pending the government’s efforts to effectuate his removal for six months
21 following the final order of removal. *See Zadvydas*, 533 U.S. at 701. This means that
22 Petitioner’s claim of prolonged detention would not be ripe until, at the earliest, January
23 15, 2027. *See id.*

24 Moreover, to the extent Petitioner asserts that he has been under prolonged
25 custody, almost all of that time was before his removal order became administratively
26 final and would thus not count toward the 90-day removal period that governs his
27 present custody. *See Tumasov*, 2025 WL 3171897, at *1 (“Any pre-removal-order
28 custody does not count toward the 90-day removal period, which began once Tumasov’s

1 removal order was administratively final and during which the government shall detain
2 him.”) (simplified, quoting *Johnson v. Guzman Chavez*, 594 U.S. 523, 533 (2021); 8
3 U.S.C. § 1231(a)(1)(A)).

4 Thus, his petition for a writ of habeas corpus must be denied. *See Tumasov*, 2025
5 WL 3171897, at *1 (denying petitioner habeas relief because “he is still in the 90-day
6 window of statutorily mandated detention”); *Prokopev v. LaRose*, No. 25-cv-3441-JES-
7 MSB, 2026 WL 50758, at *1–2 (S.D. Cal. Jan. 7, 2026) (same); *see also Khalilova v.*
8 *Smith*, No. 25-CV-2140 JLS (DDL), 2025 WL 3089522, at *4 (S.D. Cal. Nov. 5, 2025)
9 (“[B]ecause the six-month period of presumptive reasonableness [under *Zadvydas*] has
10 not passed, Petitioner’s claim is not ripe for review[.]”); *Ao v. Noem et al.*, No. 25-CV-
11 03256-BAS-VET, 2025 WL 3535207, at *1 (S.D. Cal. Dec. 9, 2025) (same).

12 IV. CONCLUSION

13 For the reasons stated herein, Respondent respectfully requests the Court deny
14 the habeas petition on its merits.

15
16 DATED: June 17, 2026

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